IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20172 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BIPINKUMAR HIRALAL PATEL - Petitioner(s)
Versus
THE DEPUTY COLLECTOR & 1 - Respondent(s)

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Appearance :
MR GUNVANT R THAKAR for Petitioner(s) : 1,
MR.DIPEN DESAI AGP for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 14/08/2007

ORAL JUDGMENT

1. RULE. Learned A.G.P. Mr.Dipen Desai waives service for the respondents.

2. The petitioner has approached this Court under Article 226 of the Constitution to

challenge the order dated 15.05.2006 of Deputy Collector, Stamp Duty Valuation Organization, Sector-2, Surat whereby, the so-called appeal of the petitioner was rejected only on the ground of delay. There is no dispute about the fact that after service of notice under the Rules, the order dated 31.12.2001 under the provisions of Section 32-A of the Bombay Stamp Act, 1958 (for short, “the Act”) was made fixing the market value of the property in question and determining the stamp duty payable thereon. The petitioner had sought to make an application for reference under the provisions of Section 32-B of the Act and made an application for reducing the amount required to be deposited under that provision. That application of the petitioner was allowed by the order dated 27.11.2002 and necessary amount, under that order, was deposited by the petitioner on 02.12.2002. Thereafter, the so-called Appeal No.85 of 2003 was preferred on or around 18.12.2002 which had come to be dismissed by the impugned order dated 15.05.2006.

3. It was fairly conceded by learned A.G.P., appearing for the respondents, that after acceptance of the deposit for the purpose of making reference, the reference was required to be made and it was required to be considered and

decided on merits by the appropriate authority, in accordance with law and in view of the recent judgments of this Court.

4. Therefore, the petition is partly allowed by consent, with the direction that the Collector concerned shall draw up a statement of the case of the petitioner and refer it to the Chief Controlling Revenue Authority in accordance with the provisions of Section 32-B of the Act and upon such reference being made, the so-called appeal of the petitioner shall be considered and decided on merits, in accordance with law after affording to the petitioner an opportunity of being heard. It is clarified that the so-called appeal of the petitioner and the reference directed to be made shall not be dismissed only on the ground of delay or limitation. In the meantime, the impugned order dated 15.05.2006 shall stand quashed. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.WAGHELA, J.)

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